

DEPARTMENT OF THE AIR FORCE

AF REGULATION 40-771

Headquarters US Air Force

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Civilian Personnel

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APPEAL AND GRIEVANCE PROCEDURES

This regulation establishes Air Force systems for adjudicating certain employee appeals of adverse actions and for considering employee grievances. It implements 5 CFR, Part 771, and reflects the policies of the Secretary of the Air Force in matters which are discretionary with the Air Force. It generally applies to US citizen employees of the Air Force who are paid from appropriated funds and who are either nonbargaining unit employees or bargaining unit employees in a unit where no collective bargaining agreement has been negotiated. It also applies to supervisors, civilian personnel officers, and other management officials of the Air Force. It applies to civilian employees of the Air National Guard and Air Force Reserve except it does not apply to Air National Guard Technicians administered by the National Guard Bureau under Title 32, U.S.C. Section 709. It does not apply to employees of the Army and Air Force Exchange Service. It does not apply to matters which employees may appeal to the Merit Systems Protection Board or which are covered by AFR 40-1613. It also does not apply to applicants for employment. Employees and matters covered and those excluded are contained in chapters 2 and 3.

Nothing in this publication should be construed as setting policy or establishing procedures for the operation of a negotiated grievance procedure. AFR 40-711 establishes procedures and responsibilities for the management and operation of the negotiated grievance and arbitration process. This publication is affected by the Privacy Act of 1974.

The authority for the maintenance of the system of records required by this regulation is 5 CFR, Part 771. (Federal Register, volume 49, No. 101, 23 May 1984, System No. F040 AF MP J, Civilian Appeal and Grievance System.)

	Paragraph	Page
Chapter 1—General Provisions		
Air Force Policy	1-1	1
Supplementing This Regulation	1-2	1
Terms Explained.....	1-3	1
Responsibilities and Authorities for Appeals and Grievances	1-4	2
Freedom from Reprisal or Interference	1-5	3
Allegations of Discrimination.....	1-6	3
Allegations Concerning Previously Filed Appeals or Grievances	1-7	4
Representation Rights	1-8	4
Use of Official Time	1-9	5
Witnesses	1-10	5
Appeal or Grievance File.....	1-11	6
Remedial Action.....	1-12	7
Cancellation of Appeals or Grievances.....	1-13	7
Joint Processing, Consolidation, or Separation of Appeals and Grievances	1-14	7
Complaints Action Tracking System (CATS).....	1-15	8
Supply of Forms.....	1-16	8
Chapter 2—Appeals in the Excepted Service		
Excepted Service Employees and Matters Covered by This Chapter and Specific		
Exclusions.....	2-1	9
Excepted Service Employee Time Limit for Appeal	2-2	9

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	Paragraph	Page
Excepted Service Employee Presentation of the Appeal.....	2-3	9
CCPO Action—Acceptance, Rejection, or Referral of the Appeal.....	2-4	9
Appeal Processing by AFCARA/AED	2-5	10
First-Level Decision.....	2-6	11
Air Force Review of the Appeal Decision.....	2-7	12
 Chapter 3—Grievances		
Employees and Matters Covered by This Chapter and Specific Exclusions.....	3-1	14
Group Grievances	3-2	14
Informal Grievance	3-3	14
Formal Grievance—Employee Time Limits and Presentation	3-4	15
CCPO Action—Acceptance, Rejection, or Referral of the Formal Grievance.....	3-5	15
Deciding Official Action—Adjustment of Formal Grievance or Referral To Examiner.....	3-6	16
Formal Grievance Processing by AFCARA/AED	3-7	17
Formal Grievance Decision	3-8	17
Employee Request for Review of Formal Grievance Decision	3-9	18
Air Force Review of the Formal Grievance Decision.....	3-10	18
 Attachments		
1. Matters Excluded From Coverage of This Regulation.....		20
2. Official Addresses for Appeals and Grievances		22
 Forms Prescribed		
AF 2887, Complaints Action Tracking System (CATS) Data Capture Worksheet—Initial Record Build for Adverse Action Appeal Under AFR 40-771 (Type A Complaint).....	1-15d	8
AF 2888, Complaints Action Tracking System (CATS) Data Capture Worksheet—Initial Record Build for Challenge of Disallowance of Personal Representative (Type C Complaint) ..	1-15d(1)	8
AF 2891, Complaints Action Tracking System (CATS) Data Capture Worksheet—Initial Record Build for Grievance Under AFR 40-771 (Type G Complaint)	1-15d(2)	8
AF 2892, Complaints Action Tracking System (CATS) Data Capture Worksheet—Initial Record Build for Grievance/Appeal Rejection Under AFR 40-771 (Type R Complaint).....	1-15d(3)	8
AF 2893, Complaints Action Tracking System (CATS) Data Capture Worksheet—Costs	1-15d(4)	8
AF 2894, Complaints Action Tracking System (CATS) Data Capture Worksheet—Dates (All Types of Complaints).....	1-15d(5)	8
AF 2895, Complaints Action Tracking System (CATS) Data Capture Worksheet—Remedies (All Types of Complaints).....	1-15d(6)	8
AF 2896, Complaints Action Tracking System (CATS) Data Capture Worksheet—Initial Record Build for the History File (All Types of Complaints)	1-15d(7)	8
AF 2897, Complaints Action Tracking System (CATS) Data Capture Worksheet—HAF-Level Data Update (All Types of Complaints)	1-15d(8)	8

Chapter 1

GENERAL PROVISIONS

1-1. Air Force Policy:

a. Appeals and grievances processed under this regulation must be given objective consideration.

b. Commanders must maintain a work environment in which employees and authorized employee representatives are free to participate in the appeal and grievance systems according to this regulation without restraint, interference, coercion, discrimination, or reprisal.

c. Appeal and grievance time limits must be met whenever possible. Delays in processing at all steps of appeals and grievances must be held to a minimum.

d. The parties have a continuing obligation to attempt settlement of the dispute throughout the processing of the appeal or grievance.

1-2. **Supplementing This Regulation.** This regulation may not be supplemented without the prior approval of HQ USAF/MPKE. Supplementation will be according to AFR 40-171.

1-3. Terms Explained:

a. **Adverse Action.** A removal, suspension, furlough for 30 days or less, or reduction in grade or pay. Actions resulting from reduction in force are not included.

b. **Air Force Appeal and Grievance Examiner (Examiner).** A person designated under proper authority to process appeals and grievances under this regulation. Examiners conduct inquiries and hearings; prepare evidentiary case records; analyze case records and make findings, recommendations, and decisions. (See paragraph 1-4a(4) of this regulation for a further explanation of Examiners' responsibilities and authorities.)

c. **Appeal.** A written request by an employee covered by chapter 2, paragraph 2-1a, to contest his or her removal; suspension for more than 14 days; furlough for 30 days or less; reduction in grade or pay; or resignation, or employee requested reduction in grade or pay which the employee alleges was secured by duress, intimidation, or deception. An appeal under this regulation is a special type of grievance, and the Air Force decision to grant these appeal rights does not confer entitlements under any other regulation.

d. **Bargaining Unit Employee.** An employee included in an appropriate bargaining unit for which a labor organization has been granted exclusive recognition.

e. **Central Civilian Personnel Office (CCPO).** The employee's servicing CCPO, unless otherwise specified in this regulation or in a servicing agreement under AFR 40-105.

f. **Commander.** The commander to whom appointing authority is delegated under AFR 40-102, unless otherwise specified in this regulation or in a servicing

agreement under AFR 40-105. Responsibilities assigned to any commander under this regulation may be carried out by a vice commander or by another individual acting in either the commander's or vice commander's absence.

g. **Days.** Days means consecutive calendar days, including holidays, weekends, and other nonduty days.

h. **Employee.** A current nonbargaining unit employee of the Air Force; a current bargaining unit employee of the Air Force in a unit where no collective bargaining agreement has been negotiated; a former Air Force employee whose grievance or appeal rights are still in force and for whom a remedy can be provided; and other agencies' nonbargaining unit employees and bargaining unit employees not covered by a collective bargaining agreement when servicing of those employees is covered under AFR 40-105. (Chapter 2 of this regulation applies only to employees serving in the excepted service who are not entitled to veteran's preference based on service with the US Uniformed Services.)

i. **Furlough.** A nondisciplinary action placing an employee in a temporary nonduty and nonpay status because of lack of work or funds or for other nondisciplinary reasons. A furlough is an adverse action if it is for a period of 30 calendar days or less and is based on a decision of an administrative officer. A furlough for more than 30 calendar days is a reduction-in-force action covered by Federal Personnel Manual (FPM) Chapter 351 and AFR 40-351.

j. **Grade.** A level of classification under a position classification system.

k. **Grievance.** A request by an employee, or by a group of employees acting as individuals, for personal relief in any matter of concern or dissatisfaction relating to the employment of the employee(s) which is subject to the control of Air Force management. Grievances do not include any matters which are subject to review outside the Air Force or for which other authorized complaint or appeal systems are prescribed. This does not mean, however, that a grievance may not include a matter which the Air Force has the authority to resolve even though that matter might otherwise be reviewed by another agency, such as the General Accounting Office. See attachment 1 for specific exclusions.

l. **Harmful Error.** An error by management in the application of its procedures which, if corrected or alleviated, might have resulted in a different conclusion. Accordingly, if the appellant or grievant has not alleged a procedural error to be harmful, that error normally should be assumed to be not harmful.

m. **Pay.** The rate of basic pay fixed by law or administrative action for the position held by an employee.

n. **Personal Relief.** A specific remedy directly bene-

fitting the appellant(s) or grievant(s) which may not include a request for disciplinary or other action affecting another individual.

o. Removal. A separation action, disciplinary or non-disciplinary, covered by AFR 40-750. It is an involuntary separation of an employee from Air Force employment which terminates the employee's status as an Air Force employee and, in some cases, may bar the individual from future Federal employment.

p. Suspension. An action which places an employee for disciplinary reasons in a temporary status without duties and pay.

1-4. Responsibilities and Authorities for Appeals and Grievances:

a. Air Force Civilian Appellate Review Agency (AFCARA). An activity assigned to the Office of the Secretary of the Air Force under the operational and technical control of the Deputy Assistant Secretary of the Air Force (Civilian Personnel Policy and Equal Employment Opportunity), (SAF/MIK). It consists of a headquarter's staff including the Office of the Director (AFCARA/DIR), the Appellate Review Board (AFCARA/ARB), and the Appellate Examining Division (AFCARA/AED). Among its duties, AFCARA acts for the Office of the Secretary in the processing of appeals and grievances under this regulation. As deemed appropriate by SAF/MIK, the Director of AFCARA or designee may be designated to render decisions on behalf of the Air Force. AFCARA does not provide staff advice or assistance to field activities on cases or problems; neither does it provide staff advice or assistance to appellants or grievants. See attachment 2 for the address for AFCARA/DIR and for AFCARA/ARB. (See (3) below concerning AFCARA/AED.)

(1) Office of the Director (AFCARA/DIR). The Office of the Director manages the operation of the Air Force appeal and grievance systems. The Director establishes internal operating procedures to ensure that AFCARA provides prompt, efficient processing of cases. Among other authorities, the Director of AFCARA determines whether appeals or grievances will be remanded for further processing because of claimed Examiner processing error, because of evidentiary inadequacy, because of the alleged existence of new evidence, because of the need for additional clarifying information, or for such other reason as might come to the Director's attention. The Director also acts on requests for AFCARA personnel to serve as witnesses in any proceedings.

(2) Appellate Review Board (AFCARA/ARB). The ARB is a quasi-judicial organization that acts as Executive Secretariat for the Secretary of the Air Force in processing appeals and grievances for decision by the Secretary or the Secretary's designee.

(3) Appellate Examining Division (AFCARA/

AED). The AED operates the Air Force program for inquiring into appeals and grievances under this regulation. It provides Air Force Appeal and Grievance Examiners from within its own resources, and it supervises the activities of ad hoc Air Force Appeal and Grievance Examiners appointed under (4) below. The address for AFCARA/AED is shown in attachment 2.

(4) Air Force Appeal and Grievance Examiners (Examiners). Employees assigned to the Air Force Civilian Appellate Review Agency are designated by the Secretary of the Air Force to act as Air Force Appeal and Grievance Examiners, and no further designation is necessary. Additionally, the Director of AFCARA or designee may designate other persons to act as Air Force Appeal and Grievance Examiners. Examiners are assigned to conduct fair and impartial hearings and inquiries. They are required to take necessary action to avoid unnecessary delays in the disposition of all cases assigned to them, and they have all authority necessary to that end unless otherwise limited by law or regulation, *including but not limited to* the authority to:

(a) Hold preinquiry conferences, as appropriate.

(b) Convene hearings and inquiries as appropriate, regulate the course of hearings and inquiries; maintain decorum; and exclude from hearings or inquiries any disruptive persons.

(c) Determine the degree of formality of proceedings and whether testimony is to be under oath or affirmation.

(d) Act upon a request for an open hearing. Either party to the proceedings may request that a hearing or inquiry be opened or object to an opening. Any order opening a hearing or inquiry when either party objects will include the reasons for the Examiner's decision. Any objections to the order will be made a part of the record.

(e) Administer oaths and affirmations.

(f) Exclude from hearings or inquiries any witness whose later testimony might be colored by testimony of other witnesses or any person whose presence might have a chilling effect on testifying witnesses or participants to inquiries.

(g) Receive evidence including authority to exclude irrelevant, immaterial, or unduly repetitious evidence or testimony and to make decisions on the admissibility of evidence or testimony.

(h) Rule on witness and exhibit lists.

(i) Call and examine witnesses.

(j) Approve or disapprove corrections of official transcripts and inquiry records.

(k) Set the date for the receipt of submissions of the parties to the appeal or grievance and the date that the record of hearings and inquiries will be closed.

(l) Make findings on issues and recommend decisions to deciding officials.

(m) Cancel an appeal or grievance for failure to prosecute or for failure to comply with the Examiner's

rulings on procedure or decorum or when the case has been improperly accepted into the system.

(n) Bring misconduct on the part of the management representative or of a witness to the commander's attention.

b. HQ USAF Directorate of Civilian Personnel (HQ USAF/MPK). The Directorate of Civilian Personnel sets policies and procedures for appeals and grievances under this regulation and provides operational guidance, advice, and assistance concerning such appeal and grievance procedures.

c. Major Commands (MAJCOM) and Comparable Organizations. MAJCOMs and comparable organizations to which a directorate of civilian personnel is assigned ensure completion of necessary program training, advise and assist field activities, review appeals and grievances and make decisions under this regulation.

d. Commanders (see paragraph 1-3f):

(1) Ensure that employees are advised of their rights to initiate appeals and grievances under this regulation.

(2) Review appeals and grievances and make decisions under this regulation.

(3) Ensure that management responsibilities under the commander's authority are fulfilled in a timely manner with delays held to a minimum.

(4) Ensure that adequate facilities and services for the processing of appeals and grievances are made available to Appeal and Grievance Examiners upon their request.

(5) Ensure the establishment of local coordination procedures (for example, among the CCPO, the Equal Employment Opportunity (EEO) Counselor, and the Office of the Inspector General) to identify an employee's choice of applicable appellate or complaint systems and to otherwise preclude dual processing of the same or directly related matters.

(6) Ensure that employees and their authorized representatives are free to use the appeal and grievance systems without restraint, interference, coercion, discrimination, or reprisal.

e. Civilian Personnel Officers (CPO):

(1) Advise and assist commanders, managers, and supervisors in processing and resolving appeals and grievances.

(2) Provide policy direction and technical advice on civilian personnel matters, including the provisions of this regulation, to management representatives.

(3) Bring this regulation to the attention of all covered employees at least annually and tell them where copies are available for review.

(4) Advise employees regarding appeal and grievance procedures.

(5) Review appeals and grievances for acceptability and accept or reject them accordingly.

(6) Ensure that time limits in this regulation which apply to the CPO or CCPO are met, whenever possible,

and that delays are held to a minimum.

f. Supervisors:

(1) Keep employees informed of their rights to initiate appeals and grievances under this regulation.

(2) Ensure that employees supervised are free to use the appeal and grievance systems or, if authorized, to represent other employees without restraint, interference, coercion, discrimination, or reprisal.

(3) Ensure that time limits in this regulation which apply to the supervisor are met, whenever possible, and that delays are held to a minimum.

(4) Resolve appeals and grievances, whenever possible, and at the lowest practicable management levels.

g. Employees:

(1) Ensure that they meet time limits in this regulation which apply to them, whenever possible, and that delays requested by them are held to a minimum.

(2) Furnish sufficient detail to clearly identify the matter being appealed or grieved.

(3) Specify the personal relief being requested.

1-5. Freedom from Reprisal or Interference. An employee and an employee's authorized representative must be free to use the appeal and grievance systems in this regulation without restraint, interference, coercion, discrimination, or reprisal. No supervisor or other person acting in an official capacity for the Air Force will take, or threaten to take, any act of reprisal against an employee because that employee has exercised or expressed an intention to exercise any right or obligation under this regulation. To be fully effective, the spirit as well as the letter of the requirement must be enforced. It is not enough for officials to abstain from overt threats or interference. Officials must refrain from making any statement or taking any action that has the flavor of a threat, interference, or intimidation.

1-6. Allegations of Discrimination. When an employee alleges discrimination based upon race, color, religion, sex, national origin, physical or mental handicap, or age in connection with an appeal or grievance, the official then considering the appeal or grievance promptly terminates the proceedings, holds the appeal or grievance in abeyance, and refers the allegation of discrimination to the appropriate activity's Chief EEO Counselor for action according to AFR 40-1613. The official notifies the employee, the employee's representative, management's representative, and the CCPO in writing of the referral. The official resumes processing the appeal or grievance and so notifies all parties if the employee, in writing, withdraws the allegation of discrimination and requests further processing under this regulation within 15 days after receipt of the Notice of Final Interview with the EEO Counselor. The time limit may be extended under the conditions shown in paragraphs 2-2 or 3-4a(1), as applicable. If the employee either files a formal discrimination complaint under AFR 40-1613, or

does not withdraw the allegation of discrimination in the appeal or grievance and request further processing under this regulation, the appeal or grievance will be cancelled according to paragraph 1-13.

1-7. Allegations Concerning Previously Filed Appeals or Grievances. Allegations concerning previously filed appeals or grievances still in process (for example, allegations that an appeal or grievance is being processed improperly, unfairly, or not in a timely manner) do not provide a basis for a new grievance. Rather, those allegations are considered as supplemental issues in the appeal or grievance from which they derive.

a. When such allegations are filed as a grievance, they will be rejected as a separate grievance. The CCPO will refer the rejected grievance to the official then considering the previously filed appeal or grievance, for incorporation of the rejected grievance allegations into the appeal or grievance in process. The CCPO will send a copy of the referral letter (with attachments) to the employee, the employee's representative, and management's representative.

b. When such allegations are submitted to the immediate supervisor or to any other management official in the employee's chain of command but are not filed as a grievance, that management official will refer the allegations to the CCPO. The CCPO, in turn, will refer the allegations to the official then considering the previously filed appeal or grievance, for incorporation of the allegations into the appeal or grievance in process. The CCPO will send a copy of the referral letter (with attachments) to the employee, the employee's representative, and management's representative.

1-8. Representation Rights:

a. **A Labor Organization Representative.** All meetings and hearings convened to process an appeal or grievance of a bargaining unit employee under this regulation are formal discussions under 5 U.S.C. 7114(a)(2)(A). Therefore, management will ensure that the exclusively recognized labor organization is notified in advance of any such meeting or hearing.

b. **Management's Representative.** The commander or designee must appoint a management representative for each appeal or formal grievance accepted under this regulation not later than the time the case is referred to AFCARA/AED. The initial designation of a management representative and any later changes in representation must be reported to AFCARA/AED in writing. The management representative may be any experienced management official who is not otherwise involved in the case, other than members of the Inspector General's staff or EEO officials.

(1) Where an individual other than a member of the CCPO staff serves as the management representative, the CCPO remains responsible for providing policy direction and technical advice concerning civilian

personnel matters to the management representative in all phases of the case. A designee of the CCPO will attend the hearing, if one is held, and any preinquiry conference, group meeting, inquiry, or similar session as a technical advisor to the management representative.

(2) In addition to his or her other responsibilities under this regulation, the management representative will promptly provide complete and accurate information to the CCPO for entry into the Complaints Action Tracking System (CATS). (See paragraph 1-15.)

c. **The Employee's Representative.** An employee has the right to present an appeal or grievance without representation. (However, if a bargaining unit employee chooses self-representation, the labor organization still retains the right to attend meetings and hearings convened to process the matter under this regulation. See a above.) Except as provided in d below, the employee also has the right to be accompanied, represented, and advised by one representative of the employee's choice at any stage of the proceedings. The representative may accompany the employee or may act for the employee without the employee's presence. The employee must designate the representative in writing. A written designation may be changed only by the employee's written notification to the official then considering the matter. Members of the civilian personnel office, members of the Inspector General's staff, and EEO officials will not serve as employee representatives. Within the United States, attorneys in the Office of the Staff Judge Advocate or the US Air Force Judiciary Area Defense Counsel will not represent employees. Overseas, those attorneys may represent employees if their services are personally requested by an employee and if they are determined to be reasonably available by their commanders after consultation with their staff judge advocates or by the Chief Circuit Defense Counsel, as appropriate. A local decision not to make an attorney available as a personal representative is not subject to review under this regulation.

d. Disallowance of Employee's Representative:

(1) The CPO or designee may disallow the employee's choice of an individual as the representative if either:

(a) Activities of the individual as a representative would cause a conflict of interest or position.

(b) Release of an employee from his or her official position to serve as a representative would give rise to unreasonable costs to the government.

(c) Priority work assignments of the individual preclude his or her release to serve as a representative.

(2) The disallowance must be in writing. It must fully, clearly, and specifically state the basis for the disallowance. Citations of regulatory provisions and other authorities relied upon are included. It must also inform the employee of the procedure for challenging the disallowance. The notification of disallowance must be delivered to the employee within 7 days after

notification of the employee's selection of a representative or as soon as possible thereafter, if the employee is not available to receive the disallowance. This notice of disallowance will become the basic explanation of management's position in an adjudication under e below.

e. Employee's Challenge of Disallowance of Representative:

(1) An employee has the right to challenge the decision to disallow his or her choice of a representative by addressing the challenge, through the CCPO, to the AFCARA/ARB, at the address shown in attachment 2. The challenge must be received by the CCPO within 7 days after receipt of the disallowance. The challenge must provide explanation of why the employee believes the designation to be proper and should explain why the disallowance is improper.

(2) Within 7 days after receipt of the employee's challenge, the CCPO sends the file to AFCARA/ARB for decision. The file will contain clean, readable copies only of documents shown in (a) through (i) below. Copies of documents will not contain markings not on the originals unless an unmarked copy is not available. When a marked copy is submitted, the unavailability of an unmarked copy will be certified, and all extraneous markings will be identified as such. The file contains, as applicable:

- (a) The designation of representation.
- (b) The disallowance.
- (c) The employee's challenge.
- (d) The employee's official position description.
- (e) The designated representative's official position description.
- (f) Official organization charts showing the relationship among relevant positions.
- (g) Relevant official functional statements.
- (h) Relevant local and MAJCOM (or comparable organization) regulations.
- (i) Cases, policy statements, and other materials cited as authorities.

NOTE: A copy of the transmittal letter to AFCARA/ARB is provided to the employee concurrently with transmittal.

(3) The Director of AFCARA or designee will, on an expedited basis, issue a final decision based upon the file described in (2) above. The decision is sent to the employee with a copy to the CCPO. That decision is not subject to further administrative review.

(4) All action on the appeal or grievance is held in abeyance pending receipt of the decision rendered under (3) above.

f. Delayed Designation of Representative. The parties are expected to begin preparing their cases before notification by the Examiner of the hearing or inquiry date. Examiners will rarely defer action on an appeal or grievance because of a delay by one or more of the parties in designating a representative. Any such deferral will be made only if the party requesting the delay

shows a substantial basis for granting the request or if the Examiner concludes that the basic purposes of this regulation will be served by deferring action.

1-9. Use of Official Time:

a. The Employee. An employee is entitled to a reasonable amount of official time, if the employee requests time and is otherwise in a duty status, for the preparation and presentation of an appeal or a grievance under procedures authorized in this regulation. Each appeal and grievance requires a separate determination of what constitutes a reasonable amount of official time based upon the facts and circumstances of the individual case. If the employee requests additional time, the request should be granted where it is possible and reasonable.

b. The Employee's Representative. If the employee's representative is an Air Force employee in a duty status, the representative is also entitled, upon request, to a reasonable amount of official time to assist or act for the employee in the preparation and presentation of an appeal or a grievance. (See c below.)

c. A Labor Organization Representative. An employee who is serving in connection with this regulation as a labor organization representative at a hearing or other formal discussion under 5 U.S.C. 7114(a)(2)(A) normally is excused without charge to leave for that purpose. However, when the employee's representative is a bargaining unit employee and that employee's representative is on official time, the representative of the labor organization is charged annual leave or leave without pay during the absence from his or her regular duties to serve as that labor organization representative.

d. Arrangements for the Use of Official Time. Employees and their representatives must make advance arrangements with their supervisors for the use of official time. When there is disagreement concerning the amount of official time to be granted, the matter will be submitted by the supervisor to the CPO or designee for resolution. Employee disagreement with the CCPO decision will be considered according to e below.

e. Disagreements Concerning Use of Official Time. Allegations that an employee or the employee's representative did not receive a reasonable amount of official time under this regulation for the preparation and presentation of an appeal or a grievance do not provide a basis for a new grievance. Instead, the allegations will be incorporated into the appeal or grievance from which the allegations stem according to paragraph 1-7.

1-10. Witnesses. When appropriate, AFCARA will request that the employee and management identify all witnesses they wish to call and the purpose of their testimony.

a. The Examiner or designee determines which of the requested witnesses will be heard and requests management to arrange for the attendance of all witnesses who are under the control of the Air Force or other

Federal agencies or who are non-Federal witnesses for management. The employee is responsible for arranging for the attendance of his or her witnesses who are not Federal employees.

b. When notified that a witness is not available, the Examiner may postpone the hearing or inquiry until such time as the witness is available if the Examiner believes that the presence of the witness is essential to a full and fair adjudication of the case.

c. Air Force Personnel as Witnesses:

(1) Notification of Witnesses. Management notifies each Air Force witness through appropriate channels that it is the witness' duty to testify; that appearance as a witness will be free from any form of restraint, interference, coercion, discrimination, or reprisal on the part of the Air Force; and that refusal to testify, except as provided in AFR 40-735, may be cause for disciplinary action.

(2) Availability of Witnesses. Air Force military and civilian personnel called as witnesses by the Examiner are made available unless it is administratively impracticable. When an Air Force activity cannot make its employees available, that activity commander (see paragraph 1-3f) or designee must provide the reasons, in writing for inclusion in the record and must furnish a copy of the denial to the witness' parent MAJCOM or comparable organization Director of Civilian Personnel for review. If the denial is not justified, the parent MAJCOM or comparable organization may direct the activity to make the witness available.

(3) Duty Status and Travel. Air Force personnel are in a duty status during the time they are made available as witnesses or are required by the Examiner to provide sworn statements. Temporary duty is funded according to AFM 172-1, volume 1, chapter 10, paragraph 10-25 and table 10-1.

d. Travel of Other Witnesses:

(1) Travel for members of the Uniformed Services is covered by the Joint Travel Regulations (JTR) volume 1, chapter 6.

(2) Travel of civilian officials and employees of other Federal Government departments and agencies who perform official assignments for and at the expense of the Department of Defense (DOD) is covered in JTR volume 2, chapter 1.

(3) Travel of DOD civilian personnel is covered in JTR volume 2, chapter 4.

(4) Travel of personnel who are not Federal Government employees or members of the Uniformed Services is covered in JTR volume 2, chapter 6.

e. AFCARA Personnel as Witnesses:

(1) AFCARA personnel rarely have first-hand, personal knowledge about the matters at dispute in an appeal or grievance. For that reason, their testimony would provide little or no assistance in the adjudication of the appeal or grievance, and approval for AFCARA personnel to testify as witnesses will rarely be given.

(2) Requests for AFCARA personnel as witnesses will be sent to AFCARA/DIR, at the address shown in attachment 2. Requests for the Director as a witness will be sent to SAF/MIK, at the address shown in attachment 2. Requests submitted by management will be signed by the commander or designee. Each request will specify, at a minimum, the following information:

(a) The specific identification of each AFCARA employee being requested. If more than one employee is being requested, responses to items (b) through (d) below must be made for each requested employee.

(b) The specific identification of the case for which the request is made.

(c) The specific identification of what information the witness is to provide, what relevance that information has to the adjudication of the case, why that information has importance to the presentation of the case, what efforts have been made to get that information from other sources, and why those efforts have not been successful.

(d) The name, address, and telephone numbers (both Autovon, if any, and commercial) of the person to be contacted concerning the request.

1-11. Appeal or Grievance File. When an appeal or a formal grievance is accepted under this regulation, the CCPO establishes a file containing all documents pertinent to the case. That file, as augmented in subsequent proceedings, becomes the official record of the appeal or grievance proceedings.

a. File Contents:

(1) The file contains original documents, whenever possible, or true copies of all documents related to the appeal or grievance. All documents must be legible. The file must not contain material not available to the employee and the employee's representative. Material which cannot be shown to the employee or the employee's representative because its disclosure would violate a pledge of confidence, or because it is in some way restricted or classified, must be included in the file in a form which the employee and the employee's representative can review, or it must not be used.

(2) The file contains, if applicable, either the written informal grievance decision or a memorandum explaining the informal resolution attempted in the grievance, signed by the official who considered the matter.

(3) The file also contains copies of all transmittals and replies thereto under this regulation. The party initiating such correspondence is responsible for providing copies of it to the other party and for submitting such correspondence for the file.

(4) Closed appeal and grievance files are disposed of according to AFR 12-50.

b. Employee and Employee Representative Access. The employee and the employee's representative must have free and reasonable access to all of the material in

the appeal or grievance file. Unless otherwise specified, management is not required to furnish the employee or the employee's representative a copy of the file.

1-12. Remedial Action:

a. When an appeal or grievance is resolved in favor of the employee, appropriate remedial action will be taken promptly insofar as is possible under law and regulation. Subject matter regulations must be consulted in determining the remedial action to be taken. See Book III, Chapter 1, Part 550 of FPM Supplement 990-1, Civil Service Laws, Executive Orders, Rules and Regulations, for information about back pay and attorney fees.

b. Disciplinary action against a supervisor, other official, or employee is not a personal remedy that may be demanded by an employee under this regulation; therefore, it is not properly an issue for discussion in a hearing or inquiry nor will it be specified in a decision on an appeal or grievance. When an employee complains of harassment, personal bias, or other improper acts of an Air Force official or employee, and requests disciplinary action, the essential issue for inquiry is whether or not the employee has cause for the complaint. If the situation is found to be as alleged, the employee is entitled to know only that appropriate corrective action is being taken. The employee is *not* entitled to know what the corrective action will be, who will be involved, the method management will use to make necessary corrections, or what disciplinary action against an Air Force official or employee may result.

1-13. Cancellation of Appeals or Grievances:

a. An appeal or grievance will be cancelled by the official then considering it:

- (1) On receipt of the employees's written request.
- (2) On notification that the requested relief has been granted to the extent authorized, whether or not the employee requests cancellation.
- (3) For failure to prosecute, if the employee does not furnish required information and duly proceed with the advancement of the case after having been warned, in writing, of the possibility of cancellation.
- (4) On the death of the employee, or on the employee's separation from Air Force employment for reasons not connected with the appeal or grievance, provided there is no question of pay involved or other personal relief that could be granted to the employee.

(5) On notification that the same matter or a directly related matter has been accepted for adjudication by some other agency or under some other complaint system authorized to review it. If it cannot readily be determined that the matter(s) appealed or grieved will be adjudicated by some other agency with whom the employee has filed a dissatisfaction, the official considering the appeal or grievance may terminate its processing and hold the case in abeyance

pending a final decision by the other agency. Once a final decision has been made by the other agency, the official considering the appeal or grievance under this regulation may determine whether the issues in the case effectively have been adjudicated by that other agency. If the issues have been adjudicated, the official may cancel the appeal or grievance; if the issues have not been adjudicated, case processing will be resumed under this regulation. The employee, the employee's representative, management's representative, and the CCPO will be notified whenever a case is held in abeyance and whenever processing under this regulation is resumed. AFCARA/AED and AFCARA/ARB also will be notified if those offices have taken part in processing the case. For example, if an employee has grieved the propriety of a performance rating under this regulation and has also filed an appeal with the Merit Systems Protection Board (MSPB) based upon his or her change to lower grade for unacceptable performance, the grievance may be held in abeyance pending adjudication of the appeal by the MSPB. If the MSPB effectively adjudicates the issue of the propriety of the performance rating, the grievance may be cancelled.

b. The official cancelling the appeal or grievance must notify the employee promptly, in writing, of the cancellation and the reasons for it. The notice must also inform the employee of the right to request a review of the decision under paragraph 2-7a(1) or 3-9b(1) and applicable time limits. A copy of the notification is sent to the employee's representative, management's representative, and to the CCPO. Copies are also sent to AFCARA/AED and AFCARA/ARB if those offices have taken part in processing the case.

1-14. Joint Processing, Consolidation, or Separation of Appeals and Grievances:

a. When an employee submits more than one appeal or grievance under this regulation, AFCARA may jointly process the cases if the issues are closely related; if to do so would not adversely affect the interests of the parties to the cases; and if to do so could be expected to produce a more efficient, more economical or more timely processing of the cases.

b. When an employee submits an appeal or grievance containing more than one issue, AFCARA may separate the issues for processing if the issues are clearly separable and not necessarily related to each other; and if separate processing can reasonably be expected to lead to a more efficient, more economical, or more timely processing of the cases.

c. When two or more employees submit appeals or grievance containing identical or similar issues, AFCARA may consolidate the cases if to do so would not adversely affect the interests of the parties to the cases; and if to do so could be expected to produce a more efficient, more economical, or more timely case processing.

1-15. Complaints Action Tracking System (CATS):

a. The CATS is a subsystem of the automated Personnel Data System-Civilian (PDS-C) which maintains a variety of records in support of the civilian personnel program. CATS provides information to track the progress of covered cases through this regulation and other applicable dispute resolution procedures, to manage responsibilities assigned to AFCARA, to support budget and other administrative needs, and to support personnel program development activities.

b. Unless otherwise specified in CATS documentation, the policies and practices of PDS-C apply to CATS. Input of information into CATS is by the CCPO. Access to information in CATS is restricted to those having an official requirement and is through the CCPO.

c. All officials involved in the processing of a case covered by CATS, regardless of functional or organizational location, must provide the information needed to keep the system current.

d. The following forms are among those used to document data that are input into CATS and will be distributed in two phases:

(1) AF 2887, Complaints Action Tracking System (CATS) Data Capture Worksheet—Initial Record Build for Adverse Action Appeal Under AFR 40-771 (Type A Complaint).

(2) AF 2888, Complaints Action Tracking System (CATS) Data Capture Worksheet—Initial Record Build for Challenge of Disallowance of Personal Representative (Type C Complaint).

(3) AF 2891, Complaints Action Tracking System (CATS) Data Capture Worksheet—Initial Record Build for Grievance Under AFR 40-771 (Type G Complaint).

(4) AF 2892, Complaints Action Tracking System (CATS) Data Capture Worksheet—Initial Record Build for Grievance and Appeal Rejection Under AFR 40-771 (Type R Complaint).

(5) AF 2893, Complaints Action Tracking System (CATS) Data Capture Worksheet—Costs.

(6) AF 2894, Complaints Action Tracking System (CATS) Data Capture Worksheet—Dates (All Types of Complaints).

(7) AF 2895, Complaints Action Tracking System (CATS) Data Capture Worksheet—Remedies (All Types of Complaints).

(8) AF 2896, Complaints Action Tracking System (CATS) Data Capture Worksheet—Initial Record Build for the History File (All Types of Complaints).

(9) AF 2897, Complaints Action Tracking System (CATS) Data Capture Worksheet—HAF—Level Data Update (All Types of Complaints).

1-16. Supply of Forms:

a. During the CATS system test, AFCARA/DIR, Bolling AFB, DC 20332-6438 will supply the necessary forms to bases that have been identified as CATS test bases. AFCARA will not respond to requests from bases that are not participating in the CATS system test. During this period, the forms will not be available to any base that is not participating in the CATS system test.

b. When CATS is implemented for use throughout the Air Force, the forms will be available through normal publishing distribution channels. AFCARA will not respond to any requests for forms from any base after the implementation date.

Chapter 2

APPEALS IN THE EXCEPTED SERVICE

2-1. Excepted Service Employees and Matters Covered by This Chapter and Specific Exclusions:

a. Excepted Service Employees Covered and Those Excluded. Except as provided below, the appeal procedure in this chapter is available to employees of the Air Force serving in the excepted service who are *not* entitled to veteran's preference based on service with the US Uniformed Services and to such employees of other agencies who have access to this appeal procedure through coverage in servicing agreements under AFR 40-105. An *employee* for purposes of this chapter is a current nonbargaining unit employee, a current bargaining unit employee in a unit where no collective bargaining agreement has been negotiated, or a former employee whose appeal rights are still in force and for whom a remedy can be provided. This chapter does *not* cover employees who have appeal rights to the MSPB. Other exclusions are:

- (1) Employees serving in excepted service, Schedule C positions.
- (2) Non-US citizens employed in foreign areas.
- (3) Aliens appointed under Section 1471(5) title 22, U.S.C. Those individuals provide services related to the translation or narration of colloquial speech in foreign languages.
- (4) Employees in trial periods, or in their first year of current continuous service in the same or similar positions in the same agency.
- (5) Employees of nonappropriated fund instrumentalities.
- (6) Reemployed annuitants.

b. Matters Covered and Those Excluded:

- (1) The appeal procedure in this chapter is used to review only:
 - (a) A change to lower grade (demotion) or removal for unacceptable performance under AFR 40-452.
 - (b) The following actions covered under AFR 40-750:
 1. A removal.
 2. A suspension for more than 14 days.
 3. A furlough for 30 days or less.
 4. A reduction in grade or pay. (This does not include an action which entitles an employee to grade retention under 5 CFR, Part 536, or an action to terminate the entitlement.)
 - (c) A resignation or an employee requested reduction in grade or pay which the employee alleges was secured by duress, intimidation, or deception.
- (2) See AFR 40-750, paragraph 3b, and attachment 1, of this regulation for more information concerning matters specifically excluded from this chapter.

2-2. Excepted Service Employee Time Limit for Appeal.

An employee may file an appeal under this chapter any time within 20 days after the effective date of the action being appealed. The time limit may be extended when, in the judgment of the CPO or designee, the employee shows that either:

- a. He or she was not notified of the time limit.
 - b. That circumstances beyond the employee's control prevented the filing of a timely appeal and the delay was not excessive under the circumstances.
- NOTE: An extension of the time limit of more than 60 days is not authorized without a prior determination by the Chief, AFCARA/AED, that a meaningful inquiry can be conducted.

2-3. Excepted Service Employee Presentation of the Appeal. The appeal must:

- a. Be in writing.
- b. Be addressed to the Commander, Attention: Civilian Personnel Officer.
- c. Give the employee's full name, duty assignment, work and home telephone numbers as applicable, and mailing address to which correspondence is to be sent.
- d. Contain sufficient detail to clearly identify the matter being appealed and to clarify the reasons why the employee believes the action or decision was not warranted. Any allegations of harmful error should be included. (See paragraphs 2-5b and 1-31 for more information concerning harmful error and the burden of proof.)
- e. Specify the personal relief sought by the employee (see paragraphs 1-12b and 1-3n). If the employee believes that another action was more appropriate than the action taken, the employee may state that action and reasons why it is more appropriate.
- f. Give the name, mailing address, and telephone number of the employee's representative, if applicable.
- g. Contain a statement that the employee does or does not desire a hearing.
- h. Contain a statement that the employee has not filed an appeal or complaint from the same action under any other Air Force appellate or complaint system or with any other agency.
- i. Be dated and signed by the employee.

2-4. CCPO Action—Acceptance, Rejection, or Referral of the Appeal. Within 10 days after receipt of an appeal, the CPO or designee, acting for the commander, takes one of the following actions:

- a. Rejects the appeal if the employee is not covered by this chapter, if the appeal consists entirely of matters excluded from coverage of this chapter, or if it was not timely filed and the employee did not show good cause

for the delay according to paragraph 2-2. The CPO or designee informs the employee and the employee's representative, in writing, of the reasons for the rejection, the employee's right to request a review of the rejection according to paragraph 2-7, and the time limit for any such request.

b. Accepts appropriate portions of the appeal. Rejects those portions which are excluded from coverage of this chapter, or which were not timely filed and the employee did not show good cause for the delay according to paragraph 2-2. The CPO or designee informs the employee, the employee's representative, and management's representative, in writing, of the portions accepted, the portions rejected, the reasons for any rejection, the employee's right to request a review of the rejection according to paragraph 2-7, and the time limit for any such request. The CCPO holds the accepted portions of the appeal in abeyance pending action under paragraph 2-7. Upon expiration of the time limit for a request for review under paragraph 2-7 or upon completion of action under that paragraph, the CCPO refers the accepted portions of the appeal for consideration as provided in d below.

c. Accepts the appeal, holds it in abeyance, and follows paragraph 1-6 if the appeal is otherwise acceptable but contains an allegation of discrimination.

d. Accepts the appeal, prepares the official appeal file, and sends it to AFCARA/AED (attachment 2). The following information is included in the letter of transmittal, a copy of which is furnished to the employee, the employee's representative, and management's representative:

(1) A statement verifying that the employee is not a bargaining unit employee covered by a collective bargaining agreement.

(2) A clear identification of those issues accepted and those rejected.

(3) A request for a hearing, if desired, and the reasons for the request. Approval of management's request for a hearing is at the discretion of the Examiner.

(4) The name, official mailing address, and telephone numbers (Autovon and commercial) of management's representative.

(5) The name, official mailing address, and telephone numbers (Autovon and commercial) of the person who will make arrangements for necessary facilities and services for the appeal processing.

(6) The name, title, and mailing address of the deciding official according to paragraph 2-6 to whom the appeal file and the examiner's report should be sent (paragraph 2-5f).

2-5. Appeal Processing by AFCARA/AED:

a. **Preliminary Review.** The appeal is docketed and the appeal file is reviewed for completeness. Action is taken to secure missing documents or clarification of material, and allegations of harmful error are given a

preliminary examination.

b. **Harmful Error and Merit Deficiency.** The burden is upon the employee to identify alleged harmful error and to show that, based upon the record as a whole, the error was harmful (caused substantial harm or prejudice to the employee's rights). Accordingly, if the employee has not alleged a procedural error to be harmful, that error normally should be assumed to be *not* harmful. The Examiner will not always be able to detect existing harmful error during the preliminary review. In fact, harmful error may not become apparent until after completion of fact gathering or even later in the processing of the appeal.

(1) If harmful error is clearly found during the preliminary review, a report which analyzes the procedures and which recommends procedural reversal of the action without a hearing is sent to the Chief, AFCARA/AED, who will make the decision. Within 15 days after receipt of the decision, either party may appeal that decision to the Director of AFCARA. The Director's decision is not subject to further administrative review.

(2) If the Examiner finds harmful error after the preliminary review, action is taken according to b(1) above, unless the action also is deficient based on merit. If the Examiner concludes that the action is invalid because of harmful error *and* because it has fatal merit deficiencies, the examiner's report will cover both the harmful error and merit deficiencies.

c. **Processing Without a Hearing.** When the appellant declines a hearing, the appeal is processed for decision based upon the official appeal file described in paragraph 1-11. However, AFCARA, at its discretion and on its own initiative, may determine that the appeal file is inadequate to support a valid decision and may augment the file through additional factfinding.

d. **Conduct of the Hearing.** When preliminary review does not clearly disclose harmful error, a hearing is scheduled, if applicable. The scheduling and conduct of the hearing are within the authority of AFCARA and the Examiner. (See paragraph 1-4a(4) for examiner authority.)

(1) **Hearing Time and Location.** AFCARA/AED schedules the hearing and notifies the parties of the time and location. Delays requested by the employee, the employee's representative, or management's representative will be approved only upon presentation of important reasons (for example, illness of the employee, representatives, or witnesses). If practicable, the hearing is held at the installation where the employee works.

(2) **Advisors at the Hearing.** Except as provided by paragraph 1-4a(4)(b), both the employee and management may have a person in addition to their representative at the hearing to serve as an advisor. Advisors will not be recognized as representing either the employee or management. An employee's advisor will not be granted official time to serve as an advisor.

(3) **Testimony at the Hearing.** Testimony is under oath or by affirmation. The employee or the employee's representative and management's representative are given an opportunity to cross-examine all witnesses who testify.

(4) **Record of the Hearing.** The hearing is recorded and transcribed verbatim. That transcript and all documents accepted by the Examiner at the hearing become the hearing record. The activity which referred the appeal to AFCARA/AED provides the reporter and sends the Examiner the original and two copies of a complete and accurate record of the hearing within 10 days after the close of the hearing.

e. Position Classification Issues. If the adverse action resulted from the downward classification of the employee's position and the employee has not filed a classification appeal (under AFR 40-512, or Office of Personnel Management (OPM) procedures), the employee may contest the position classification decision in addition to the demotion decision. Also, the employee may contest any pay retention decision made in connection with the demotion. (See Note in (2) below). The scheduling, nature, scope, and type of inquiry conducted by AFCARA under this paragraph will be at the sole discretion of the Examiner and will not necessarily include a hearing. All correspondence relating to the position classification issue is made part of the adverse action appeal file under this regulation.

(1) **Position Classification Issues Involving a Position Description Dispute.** The Examiner conducts an inquiry into the position description issue and, when the inquiry is completed, prepares a report of findings and recommendations on that matter. The Examiner submits the report and the appeal file to the appropriate deciding official indicated in the letter of appeal referral under paragraph 2-4d(6) for a decision on the position description issue. The deciding official makes a decision according to paragraphs 2-6a through d. The decision will be in writing and will be sent to AFCARA/AED. Once the decision as to the accuracy of the position description has been made, the Examiner will request a decision on the position classification issue, made under AFR 40-512 provisions, from HQ USAF/MPKC which, for the purposes of this paragraph, will render all such decisions. The Examiner then, after the conduct of such additional inquiry into the matter of the adverse action (demotion) as he or she determines necessary, prepares a written report concerning the adverse action. That report incorporates, without change, the position description and position classification decisions. The report is sent through AFCARA/ARB to the Deputy Assistant Secretary of the Air Force (SAF/MIK) or designee, who has final Air Force authority to rule on the adverse action as well as any position description or position classification decision made in connection with that adverse action appeal.

(2) **Position Classification Issues not Involving a**

Position Description Dispute. The Examiner conducts an inquiry into the adverse action. The Examiner then requests a decision on the position classification issue, made under AFR 40-512 provisions, from HQ USAF/MPKC. The Examiner incorporates the classification decision into his or her report to SAF/MIK or designee for final Air Force decision.

NOTE: A position classification decision is excluded from coverage under this regulation by attachment 1, paragraph A1-3. Position classification decisions are adjudicated under AFR 40-512 or by OPM. However, for the convenience of the parties and for administrative efficiency, e above permits the employee to appeal the classification decision simultaneously with the demotion decision (and any related pay retention decision) under the procedures of this regulation. Where the special procedures of e above differ with other provisions of this regulation or AFR 40-512, e above prevails.

f. Report of AFCARA/AED. After the close of the hearing or inquiry, the Examiner prepares a written report and sends the original copy of that report and the appeal file to the appropriate deciding official.

2-6. First-Level Decision. The first-level decision on the appeal normally is made by the commander; however, if the commander is disqualified, the appeal is submitted directly to the commander or designee of the employee's parent MAJCOM or comparable organization for the first-level decision. The commander is disqualified if he or she made or influenced the decision regarding the matter being appealed or has a directly personal interest in the matter. If the MAJCOM or comparable organization commander is similarly disqualified, or in the case of one-installation commands, the appeal is submitted directly to AFCARA/ARB, and the decision will be made by the official in the Office of the Secretary of the Air Force designated in paragraph 2-7f.

a. Time Limits. The deciding official normally issues a decision concerning the appeal within 15 days after receipt of the appeal file. If the decision cannot be issued within that time limit, the employee is notified of the reasons for the delay and the anticipated decision date. Copies of such notification of delay are sent to the employee's representative, management's representative, the CCPO, and AFCARA/AED.

b. Reaching a Decision. The deciding official may seek advice and assistance from sources in addition to the Examiner's report when making his or her decision on an appeal. The deciding official must not require the conduct of an independent investigation or accept comments and recommendations from any person who was directly responsible for taking the action appealed or who represented either party in the hearing or gave testimony in the processing of the case. The deciding official may not sustain an action which the Examiner has found to contain harmful error. An action may be reversed because of merit deficiencies without regard to

any harmful error.

c. Action by the Local Commander. If the local commander may appropriately make the first-level decision, he or she will:

(1) When the case is *not* covered by paragraph 2-5e, either:

(a) Accept the Examiner's recommendation and issue the decision based on that recommendation (paragraph 2-5b).

(b) Grant the personal relief sought by the employee, without regard to the Examiner's recommendation and issue the decision (paragraph 2-5b).

(c) Submit the appeal file directly to the employee's parent MAJCOM or comparable organization commander (through the Director of Civilian Personnel of that MAJCOM or comparable organization) for first-level decision if the local commander has reasons for not accepting the Examiner's recommendation. The transmittal letter includes the reasons for not accepting the Examiner's recommendation. The statement of reasons should be brief, citing the basis for the commander's inability or unwillingness to accept the recommendation. The statement must not be used to add new evidence or to present arguments of management's position in the matter that are not already contained in the case file. Copies of the transmittal letter are sent to the employee, the employee's representative, management's representative, the CCPO, and AFCARA/AED.

(2) When the case is covered by paragraph 2-5e, the commander will make a decision which may accept or reject the Examiner's recommendation or which may grant such relief as the commander deems appropriate.

d. Action by the MAJCOM or Comparable Organization. When the appeal file is referred to a MAJCOM or comparable organization for decision, the MAJCOM or comparable organization commander or designee will make the first-level decision unless that commander is disqualified according to paragraph 2-6. If the commander is disqualified, the appeal is submitted to AFCARA/ARB for decision by the official in the Office of the Secretary of the Air Force designated in paragraph 2-7f.

(1) When the Case is *not* Covered by Paragraph 2-5e. If the commander may appropriately make the first-level decision, the commander or designee will take action as follows:

(a) If the Examiner has made a recommendation on merit without a finding of harmful error, the commander or designee will issue the first-level decision by either sustaining the action under appeal, reversing it, or substituting a less severe action.

(b) If the Examiner has recommended reversal of the adverse action based on both merit deficiency and harmful error, the commander or designee of the MAJCOM or comparable organization may make the first-level decision to reverse the action. The com-

mander or designee may reverse the action based on merit without reference to harmful error; based on harmful error without reference to merit; or based on both merit and harmful error. If the commander or designee elects not to reverse the action based on merit and nonconcurs with the Examiner's harmful error recommendations, he or she indicates the basis for non-concurrence and sends the file to AFCARA/ARB for decision by the official in the Office of the Secretary of the Air Force designated in paragraph 2-7f.

(2) When the Case is Covered by Paragraph 2-5e. If the commander may appropriately make the first-level decision, the commander or designee will make a decision which may accept or reject the Examiner's recommendation or which may grant such relief as he or she deems appropriate.

e. The Notice of Decision Content and Distribution:

(1) The notice of decision must be in writing and addressed to the employee. It must include:

(a) Findings and a decision by the deciding official on each reason on which the original decision to take action was based, stating which reasons are sustained and which are not sustained, together with the conclusions drawn from those findings.

(b) The employee's right to request a higher level review according to paragraph 2-7, if the remedy sought by the employee is not granted.

(2) A copy of the decision is sent to the employee's representative, management's representative, the CCPO, and AFCARA/AED.

(3) A copy of the case file is sent with the decision to the employee or the employee's representative and to the management representative. The original case file is returned to the CCPO for retention according to AFR 12-50.

2-7. Air Force Review of the Appeal Decision:

a. Appeal Review Procedure: An employee may request an Air Force review of the first-level decision on his or her appeal, except when that decision was made by an official designated in f below, when the decision either:

(1) Rejected or cancelled the appeal without adjudicating it.

(2) Adjudicated the appeal but did not grant the personal relief sought by the employee.

b. Employee Time Limit. The employee's request for review must be submitted to the CCPO within 15 days after the date of receipt of the decision by the employee. The time limit may be extended according to paragraph 2-2.

c. Employee Request for Review. The request for review must:

(1) Be in writing.

(2) Be addressed to the CCPO.

(3) State fully and clearly the basis for dissatisfaction with the decision.

(4) Give the name, mailing address, and telephone number of the employee's representative, if applicable.

(5) Be dated and signed by the employee.

d. Action by the CCPO. Within 10 days after receipt of the employee's request for review of the appeal decision, the CCPO will take the following action:

(1) Send any request for review and the original appeal file to AFCARA/ARB (attachment 2). The original appeal file must be free of editorial comments and notes when sent to AFCARA.

(2) Send a copy of the transmittal letter to the employee, the employee's representative, and management's representative.

(3) Send a copy of the appeal file to the Director of Civilian Personnel of the employee's parent MAJCOM or comparable organization.

e. Action by the MAJCOM or Comparable Organization. The MAJCOM or comparable organization decision concerning the review is made within 15 days after receipt of the appeal file at that organizational level.

(1) Action by the Director of Civilian Personnel. The Director of Civilian Personnel of the MAJCOM or comparable organization or designee reviews the file. If the Director or designee believes that the personal relief sought by the employee should be granted, he or she sends the case to the MAJCOM or comparable organization commander or designee for decision. If the Director or designee believes that the remedy sought by the employee should not be granted or if, upon being

sent the file, the commander or designee decides not to take action, the Director promptly notifies AFCARA/ARB (attachment 2).

(2) Action by the Commander. If the MAJCOM or comparable organization commander or designee agrees that the personal relief sought by the employee should be granted, the commander or designee issues the decision and sends a copy to AFCARA/ARB, the employee's representative, management's representative, and the CCPO.

f. Action by the Office of the Secretary of the Air Force. The case is adjudicated on the record developed during the processing of the appeal plus the further representations contained in the request for review. There is no right to a hearing or other personal presentation in connection with the review. The decision on review is made by:

(1) The Director of AFCARA or designee, when the sole issue to be resolved is the propriety of a rejection, cancellation for failure to prosecute, or other termination of an appeal without adjudication on the merits. The Director of AFCARA or designee, also has the authority to reject requests for review when not covered by 2-7a or not timely filed under 2-7b above.

(2) The Deputy Assistant Secretary of the Air Force (SAF/MIK), Office of the Assistant Secretary of the Air Force (Manpower, Reserve Affairs and Installations) or designee in all other cases.

Chapter 3

GRIEVANCES

3-1. Employees and Matters Covered by This Chapter and Specific Exclusions:

a. Employees Covered and Those Excluded. An employee for purposes of this chapter is a current non-bargaining unit employee of the Air Force, a current bargaining unit employee of the Air Force in a unit where no collective bargaining agreement has been negotiated, a former Air Force employee whose grievance rights are still in force and for whom a remedy can be provided, and such employees of other agencies when covered in servicing agreements under AFR 40-105. Exclusions are:

- (1) Non-US citizens employed in foreign areas.
- (2) Aliens appointed under Section 1471(5) title 22 U.S.C. Those individuals provide services related to the translation or narration of colloquial speech in foreign languages.
- (3) Employees of nonappropriated fund instrumentalities.

b. Matters Covered and Those Excluded:

(1) Except as provided in (2) below, the grievance procedure in this chapter is used to review any matter of personal concern or dissatisfaction relating to the employment of the grievant which is subject to the control of Air Force management, including any matter on which a grievant alleges that coercion, reprisal, or retaliation has been practiced against him or her. (Allegations of restraint, interference, coercion, discrimination, or reprisal with the presentation or the processing of a complaint of discrimination are processed under AFR 40-1613.)

(2) The grievance procedure is *not* used to review the matters described in attachment 1.

3-2. Group Grievances. Employees may submit a grievance as a group, if all of the employees are serviced by the same CCPO and the grievance issues and personal relief sought are the same for each.

a. All employees who join in the grievance must be identified and must sign the grievance once it is placed in writing. An employee may withdraw from a group grievance, in writing, at any time before a decision is rendered; however, that employee may not then initiate the same or a substantially similar grievance under this regulation.

b. A group grievance is processed as a single grievance in the name of one employee designated by the others to act for them. If the employees do not make a designation, communications will be addressed to the employee whose name appears first on the grievance.

c. A decision on a group grievance applies to all employees in the group and each is given a copy of the

decision.

3-3. Informal Grievance. An employee desiring consideration of a grievance must first seek informal adjustment of the matter under this paragraph unless paragraph 3-4a(1) applies.

a. Employee Time Limits. An informal grievance concerning a continuing condition may be presented at any time. An informal grievance concerning a particular act may be presented any time within 20 days after the date of that act or after the date the employee became aware of it. The time limit may be extended under conditions described in paragraph 3-4a(1).

b. Employee Presentation of the Grievance. Initial presentation of the grievance may be oral or written and is made to the employee's immediate supervisor unless the grievance concerns relationships with or actions taken by that supervisor in which case, the grievance may be presented to the second-level supervisor.

c. Other Rights. See paragraphs 1-8 concerning representation rights and 1-9 concerning use of official time.

d. Actions by the Deciding Official. A grievance may not be rejected in the informal procedure for any reason. If the supervisor believes that the grievance is not timely or that it consists of matters not covered under the grievance system, the employee should be so advised but must be allowed to submit the grievance for a determination of acceptability under the formal procedure if the employee desires.

(1) **Management Time Limits.** A supervisor to whom an informal grievance has been presented must attempt to resolve it and ensure that the employee is given a decision on the matter not later than 15 days after the date of initial presentation. If that initial time limit cannot be met, the employee and the employee's representative must be notified, in writing, of the date by which a decision will be received and of the right to request that the grievance be submitted for formal grievance consideration according to paragraph 3-4a(3) if an informal decision is not issued by the date indicated. The employee is also given the name of the CCPO representative who can advise the employee regarding procedures for requesting such further grievance consideration.

(2) **Reaching a Decision.** In reaching a decision, the supervisor may seek necessary advice and assistance from the CCPO and others.

(a) The supervisor must consult the CCPO if the matter grieved concerns some aspect of an Air Force civilian career management program administered by Office of Civilian Personnel Operations; a civilian appraisal of performance under AFR 40-452; an

appraisal used for competitive placement purposes; or a matter under the control of an official at another activity. The CCPO will participate in the informal adjustment attempt, where appropriate, and will otherwise assist the supervisor in determining the appropriate official(s) to consult in attempting informal adjustment.

(b) When the grievance involves a decision on a matter under the jurisdiction of another official at the same activity, the supervisor, with the concurrence of the CCPO, refers the employee's grievance to that other official for an informal grievance decision. In all other cases, the supervisor to whom the grievance was presented, issues the informal decision.

(3) The Informal Grievance Decision. The informal grievance decision may be presented to the employee either orally or in writing. If the employee presents the grievance in writing, the decision is also given in writing. If the grievance and the decision were communicated orally, the deciding official prepares and signs a memorandum for the record explaining the issues and the decision. The memorandum is retained with the employee's AF Form 971, Supervisor's Record of Employee. (The written decision or memorandum will later be placed in an official grievance file, according to paragraph 1-11a(2), if the employee files a formal grievance.) If the personal relief sought by the employee cannot be granted, the employee is informed why and of the right to request further consideration under paragraph 3-4. The employee is also given the name of the CCPO representative who can advise the employee regarding procedures for requesting further grievance consideration.

3-4. Formal Grievance—Employee Time Limits and Presentation:

a. Employee Time Limits:

(1) An employee may present a grievance directly under the formal procedures of this paragraph if the grievance concerns an action which was effected through a notice of proposed action (which may be oral or written), a right to answer the proposal, and a final written decision. (A reprimand under AFR 40-750 meets these criteria.) The grievance must be submitted within 20 days after the effective date of the final written decision. The time limit may be extended when, in the judgment of the CPO or designee, the employee shows that he or she was not notified of the time limit, or that circumstances beyond the employee's control prevented the filing of a timely grievance and the delay was not excessive under the circumstances. An extension of the time limit of more than 60 days is not authorized without a prior determination by the Chief, AFCHARA/AED, that a meaningful inquiry can be conducted.

(2) When an employee receives a decision under the informal procedures in paragraph 3-3 which does not grant the personal relief sought in the grievance, the

employee may submit the grievance for formal grievance consideration. The grievance must be submitted within 10 days after receipt of the decision under the informal procedures. That time limit may be extended under conditions described in (1) above.

(3) When management's time limit (including any extensions) has expired and no decision has been made under paragraph 3-3d, the employee may, within 10 days thereafter, submit the grievance for formal grievance consideration.

b. Employee Presentation of the Formal Grievance.
The grievance must:

(1) Be in writing.

(2) Be addressed to the Commander, Attention: Civilian Personnel Officer at the installation.

(3) Give the employee's full name, duty assignment, work and home telephone numbers as applicable, and mailing address to which correspondence is to be sent.

(4) Contain sufficient detail to clearly identify the matter being grieved and to clarify the reasons for the grievance. Any allegations of harmful error should be included. (See paragraph 2-5b and paragraph 1-3l for more information concerning harmful error and the burden of proof.)

(5) Explain efforts made to resolve the grievance informally.

(6) Specify the personal relief sought by the employee. (See paragraph 1-12b and paragraph 1-3n.) If the employee believes that another action was more appropriate than the action taken, the employee may state that action and reasons why it is more appropriate.

(7) Give the name, mailing address, and telephone number of the employee's representative, if applicable.

(8) Contain a statement that the employee has not filed an appeal or complaint from the same action under any other Air Force appellate or complaint system or with any other agency.

(9) Include copies of any documents related to the grievance or to efforts at informal grievance resolution.

(10) Be dated and signed by the employee.

3-5. CCPO Action—Acceptance, Rejection, or Referral of the Formal Grievance. Within 10 days after receipt of a grievance, the CPO or designee, acting for the commander, takes one of the following actions:

a. Rejects the Grievance if it either:

(1) Consists entirely of matters excluded from coverage of this chapter.

(2) Consists entirely of matters identical to those of a grievance previously processed or currently in process.

(3) Was not timely filed and the employee did not show good cause for the delay according to paragraph 3-4a(1).

NOTE: The CPO or designee informs the employee, and the employee's representative, in writing, of the reasons for the rejection, the employee's right to request a

review of the rejection according to paragraph 3-9, and the time limit for any such request. If appropriate, the notice includes information about other procedures available for resolution of the employee's dissatisfaction.

b. Rejects those portions of the grievance which are excluded from coverage of this chapter, which are identical to matters in a grievance previously processed or currently in process, or which were not timely filed. The CPO or designee informs the employee, the employee's representative, and management's representative, in writing, of the portions accepted, the portions rejected, the reasons for any rejection, the employee's right to request a review of the rejection according to paragraph 3-9, and the time limit for any such request. The CCPO holds the accepted portions of the grievance in abeyance pending action under paragraph 3-9. Upon expiration of the time limit for a request for review under paragraph 3-9 or upon completion of action under that paragraph, the CCPO refers the accepted portions of the grievance for consideration as provided in e below.

c. Returns the grievance to the employee and informs the employee of the requirement to use the informal procedure if he or she did not seek necessary informal adjustment under paragraph 3-3 before filing the formal grievance.

d. Accepts the grievance, holds it in abeyance, and follows paragraph 1-5 if the grievance is otherwise acceptable but contains an allegation of discrimination.

e. Accepts the grievance, prepares the official grievance file, and refers it for consideration to the commander or to another official, according to (1) through (4) below, with authority to adjust the grievance in the manner requested by the employee. Unless the Secretary of the Air Force is involved, the grievance is referred to an official at a higher level (not necessarily by grade or in the same organization) than any official who made or influenced the decision regarding the matter being grieved or who has a personal interest in the matter. Except as provided by (1) and (4) below, when it becomes necessary to refer a grievance above the activity level for this consideration, the Director of Civilian Personnel at the employee's parent MAJCOM will be consulted and will determine the appropriate official to whom the grievance will be referred.

(1) A grievance concerning an Air Force civilian career program will be referred to the appropriate career program manager at OCPO. Within 15 days after receipt of the grievance, the career program manager will review the grievance issues and will either take action according to paragraph 3-6 if the career program manager has the authority to adjust the grievance in the manner requested by the employee and meets the deciding official criteria of e above, or will refer the grievance to the appropriate civilian career program official or designee with such authority who meets the deciding official criteria.

(2) A grievance concerning performance appraisals subject to merit pay under AFR 40-452 will be referred to the next higher level official or designee above the official who had final approval authority for the appraisal and who meets the deciding official criteria of e above.

(3) A grievance regarding a civilian appraisal used for competitive placement purposes which concerns an action by or subject to the review of an endorsing official who is above activity level will be referred to the next higher level official or designee above the endorsing official who meets the deciding official criteria of e above.

(4) A grievance concerning a head of agency determination made under subsection 031.12 of the Department of State Standardized Regulations (Government Civilians, Foreign Areas) will be sent to HQ USAF/MPKE who, in turn, will refer the grievance to an appropriate official who meets the deciding official criteria of e above.

3-6. Deciding Official Action—Adjustment of Formal Grievance or Referral To Examiner. The commander or other designated official reviews the grievance file and within 15 days after receipt determines whether or not he or she can resolve the grievance in a manner acceptable to the employee.

a. If the deciding official can resolve the grievance to the employee's satisfaction, the official notifies the employee, in writing, of the decision. Copies of the decision are sent to the employee's representative and to the CCPO.

b. If the deciding official cannot resolve the grievance to the employee's satisfaction based upon available information, the official sends the grievance to AFCARA/AED for inquiry by an Examiner. A copy of the letter of transmittal is sent to the employee, the employee's representative, management's representative, and the CCPO as notification of the acceptance of the grievance. The letter of transmittal includes:

(1) A statement verifying that the employee is not a bargaining unit employee covered by a collective bargaining agreement.

(2) A clear identification of those issues accepted and those rejected.

(3) The name, official mailing address, and telephone numbers (Autovon and commercial) of management's representative.

(4) The name, official mailing address, and telephone numbers (Autovon and commercial) of the person who will make arrangements for necessary facilities and services for the grievance processing.

(5) The name, title, and mailing address of the deciding official according to paragraph 3-5e to whom the grievance file and Examiner's report should be sent. (See paragraph 3-7c.)

3-7. Formal Grievance Processing by AFCARA/AED. The grievance is docketed upon receipt in AFCARA/AED and the grievance file is given a preliminary review. Any matters not covered by this grievance procedure are eliminated from consideration, the parties are notified accordingly, and an inquiry into covered matters is scheduled.

a. The scheduling, nature, scope, and type of inquiry conducted by AFCARA are at the sole discretion of the Examiner. Delays in proceedings requested by the employee, the employee's representative, or management's representative will be approved by AFCARA only upon presentation of important reasons.

b. The examiner may discontinue the inquiry without examination of the merit issues of the grievance upon a finding of harmful error concerning an action subject to notice requirements or other procedural requirements. The policies and procedures concerning harmful error contained in paragraphs 2-5a and b also apply to grievances involving harmful error allegations.

c. When the inquiry is completed, the Examiner closes the evidentiary record, prepares a report of findings and recommendations, and submits the report and the grievance file to the deciding official indicated in the letter of grievance referral under paragraph 3-6b(5).

3-8. Formal Grievance Decision:

a. Action by the Deciding Official:

(1) Time Limits. The deciding official normally issues a decision concerning the grievance within 15 days after receipt of the file from the Examiner. If the decision cannot be issued within that time limit, the employee is notified of the reasons for the delay and the anticipated decision date. Copies of such notification of delay are sent to the employee's representative, management's representative, the CCPO, and AFCARA/AED.

(2) The Deciding Official's Decision. The deciding official will either:

(a) Accept the Examiner's recommendation and issue the decision based on that recommendation ((3) below).

(b) Grant the personal relief sought by the employee without regard to the Examiner's recommendation and issue the decision according to (3) below.

(c) Submit the grievance for higher level decision if the deciding official has reasons for not accepting the Examiner's recommendation. If the deciding official is at activity level, the grievance file is submitted through the Director of Civilian Personnel of the employee's parent MAJCOM or comparable organization to AFCARA/ARB (attachment 2). Otherwise, the grievance file is submitted directly to AFCARA/ARB. The transmittal letter includes the reasons for not accepting the Examiner's recommendation. The statement of reasons should be brief, citing the basis for the commander's inability or unwillingness to accept the

recommendation. The statement must not be used to add new evidence or to present arguments of management's position in the matter that are not already contained in the case file. Copies of the transmittal letter are sent to the employee, the employee's representative, management's representative, the CCPO, and AFCARA/AED.

(3) The Notice of Decision Content and Distribution:

(a) The notice of decision on a grievance must be in writing and addressed to the employee. It must include:

1. Findings and a decision by the deciding official on all issues covered by the Examiner's inquiry.

2. A specific statement of the corrective action that will be taken, if the grievance is sustained.

3. The employee's right to a review under paragraph 3-9 and the time limits for requesting such review, if applicable.

(b) A copy of the decision is sent to the employee's representative, management's representative, the CCPO, and AFCARA/AED.

(c) A copy of the case file is sent with the decision to the employee or the employee's representative and to the management representative. The original case file is returned to the CCPO for retention according to AFR 12-50.

b. Action by the MAJCOM or Comparable Organization. The following information applies when a grievance file is referred to a MAJCOM or comparable organization for decision according to paragraph 3-8a(2)(c):

(1) Time Limits. The grievance file is reviewed by the commander or the commander's designee within 15 days after receipt under paragraph 3-8a(2)(c) to determine whether the grievance can be resolved at MAJCOM or comparable organization level. If the decision cannot be issued within that time limit, the employee is notified of the reasons for the delay and the anticipated decision date. Copies of the notification of delay are sent to the employee's representative, management's representative, the CCPO, and AFCARA/AED.

(2) The MAJCOM or Comparable Organization Decision. The commander or designee will either:

(a) Accept the Examiner's recommendation and issue the grievance decision according to a(3) above.

(b) Grant the personal relief sought by the employee without regard to the Examiner's recommendation and issue the grievance decision according to a(3) above.

(c) Send the grievance file to AFCARA/ARB (attachment 2) stating the reasons for the determination to neither accept the Examiner's recommendation nor to grant the relief sought by the employee.

c. Action by the Office of the Secretary of the Air Force. When a grievance is submitted to the Office of

the Secretary of the Air Force for decision, and no intervening action is taken by the MAJCOM or comparable organization, the decision is made by the official designated in paragraph 3-10c.

3-9. Employee Request for Review of Formal Grievance Decision:

a. Time Limit and Request. The employee may request a review of a formal grievance decision according to b below. The request must be submitted to the CCPO, in writing, within 15 days after the date of receipt of the contested decision and must fully and clearly explain the reasons for disagreeing with that decision. The time limit may be extended according to paragraph 3-4a(1).

b. Conditions Under Which Request for Review May Be Submitted. The employee may request a review by the Office of the Secretary of the Air Force of a formal grievance decision, except one made by an official under paragraph 3-10c, when that decision:

(1) Rejected, cancelled, or otherwise terminated the grievance without a decision on its merits.

(2) Did not grant the relief sought when the grievance involved any of the following matters:

(a) A suspension without pay.

(b) An allegation of harassment or reprisal for having filed a grievance or an appeal under this regulation.

(c) An alleged commission of a prohibited personnel practice (5 U.S.C. 2302 and AFR 40-101, paragraph 3.)

3-10. Air Force Review of the Formal Grievance Decision:

a. Action by the CCPO. Within 10 days after receipt of the employee's request for review of the grievance decision, the CCPO will take the following action:

(1) Send any request for review and the original grievance file to AFCARA/ARB (attachment 2). The original grievance file must be free of editorial comments and notes when sent to AFCARA.

(2) Send a copy of the transmittal letter to the employee, the employee's representative, and management's representative.

(3) Send a copy of the grievance file to the Director of Civilian Personnel of the employee's parent MAJCOM or comparable organization.

b. Action by the MAJCOM or Comparable Organiza-

tion. The MAJCOM or comparable organization decision concerning the review normally is made within 15 days after receipt of the grievance file at that organizational level.

(1) Action by the Director of Civilian Personnel. The Director of Civilian Personnel of the MAJCOM or comparable organization or designee reviews the file. If the Director or designee believes that the personal relief sought by the employee should be granted, he or she sends the case to the MAJCOM or comparable organization commander or designee for decision. If the Director or designee believes that the remedy sought by the employee should not be granted or if, upon being sent the file, the commander or designee decides not to take action, the Director promptly notifies AFCARA/ARB (attachment 2).

(2) Action by the Commander. If the MAJCOM or comparable organization commander or designee agrees that the personal relief sought by the employee should be granted, the commander or designee issues the decision and sends a copy to AFCARA/ARB, the employee's representative, management's representative, and the CCPO.

c. Action by the Office of the Secretary of the Air Force. The case is adjudicated on the record developed during the processing of the grievance plus the further representations contained in the request for review. There is no right to a hearing or other personal presentation in connection with the review. The decision on review is made by:

(1) The Director of Civilian Personnel of the Air Force or designee when the sole issue to be resolved is a technical question of application or interpretation of rules, regulations, standards, and procedures bearing on civilian personnel administration.

(2) The Director of AFCARA or designee when the sole issue to be resolved is the propriety of a rejection, cancellation, or other termination of an employee's grievance without adjudication on the merits. The Director of AFCARA or designee, also has the authority to reject requests for review when not timely filed under 3-9a or not covered by 3-9b above.

(3) The Deputy Assistant Secretary of the Air Force (SAF/MIK), Office of the Assistant Secretary of the Air Force (Manpower, Reserve Affairs, and Installations) or designee in all other cases.

BY ORDER OF THE SECRETARY OF THE AIR FORCE

OFFICIAL

CHARLES A. GABRIEL, General, USAF
Chief of Staff

JAMES H. DELANEY, Colonel, USAF
Director of Administration

SUMMARY OF CHANGES

This revision updates responsibilities and authorities for appeals and grievances (para 1-4); revises procedures for considering allegations of discrimination in connection with grievances (para 1-6); adds information concerning allegations involving previously filed appeals or grievances (para 1-7); adds information concerning designation of management's representative (para 1-8b); adds procedures for resolving disagreements concerning the use of official time (para 1-9e); adds information concerning witnesses (para 1-10); provides for the joint processing, consolidation or separation of appeals and grievances (para 1-14); updates appeal system coverage (para 2-1); extends the time limit for appeal and deletes the special time limit outside continental United States (para 2-2); outlines provisions for harmful error consideration (paras 2-5a and b, and para 3-7b); eliminates CPO action to reject requests for higher level review (para 2-7d and 3-10a); updates grievance system coverage (para 3-1); extends the time limit for grievances; (paras 3-3 and 3-4); updates information concerning deciding officials (paras 3-3 and 3-5e); and generally refines processing procedures throughout the publication.

MATTERS EXCLUDED FROM COVERAGE OF THIS REGULATION

A1-1. Separations of any kind are excluded from chapter 3 of this regulation.

A1-2. The content of published Air Force regulations and policy. This includes official interpretations or memoranda concerning Air Force regulations and policy made by the office of primary responsibility (OPR). An employee may report deficiencies in Air Force standard publications and may recommend corrective action by submitting a letter, through channels, to the OPR (AFR 5-1, section E).

NOTE: The content of published Air Force regulations or policy is not reviewable under this regulation. However, the application or impact of such Air Force publications on the employee directly may be grievable under chapter 3, if the ensuing action is otherwise grievable.

A1-3. A decision which is appealable to the Merit Systems Protection Board (MSPB), or subject to final administrative review by the Office of Personnel Management (OPM) or the Equal Employment Opportunity Commission (EEOC) under law or regulations of the OPM or the EEOC.

A1-4. A preliminary warning or notice of an action which, if effected, would be covered under the Air Force appeal or grievance systems or excluded from coverage of this regulation.

A1-5. The termination of the appointment of a probationer for unsatisfactory performance under 5 CFR, Part 315, Subpart H, or the termination of the appointment of a probationer for misconduct.

A1-6. A return of an employee from an initial appointment as a supervisor or manager to a nonsupervisory or nonmanagerial position for failure to satisfactorily complete the probationary period under 5 U.S.C. 3321(a)(2) and 5 CFR, Part 315, Subpart I.

A1-7. Nonselection for promotion from a group of properly ranked and certified candidates or failure to receive a noncompetitive promotion.

A1-8. An action which terminates a temporary promotion within a maximum period of 2 years and returns the employee to the position from which the employee was temporarily promoted, or reassigns or demotes the employee to a different position that is not at a lower grade or pay than the position from which the employee was temporarily promoted.

A1-9. An action which terminates a term promotion at the completion of the project or specified period, or at the end of a rotational assignment in excess of 2 years

but not more than 5 years, and returns the employee to the position from which promoted or to a different position of equivalent grade and pay according to 5 CFR, 335.102(g).

A1-10. The substance of the performance elements and standards of an employee's position which have been established according to 5 U.S.C Chapter 43, Subchapter I, and 5 CFR, Part 430.

A1-11. The granting of or failure to grant an employee performance award or the adoption of or failure to adopt an employee suggestion or invention under 5 U.S.C 4503-4505, or the granting of or failure to grant an award of the rank of meritorious or distinguished executive under 5 U.S.C. 4507.

A1-12. The receipt of or failure to receive a performance award under 5 U.S.C. 5384, or a quality salary increase under 5 U.S.C. 5336.

A1-13. A merit pay determination or a merit pay increase or the lack of a merit pay increase under the Merit Pay System, or a decision on the granting of or failure to grant cash or honorary recognition under 5 U.S.C. Chapter 54 and 5 CFR, Part 540.

A1-14. A return of a Senior Executive Service (SES) career appointee to the General Schedule or another pay system during the 1-year period of probation or for less than fully successful executive performance under 5 U.S.C. 3592.

A1-15. A reassignment of an SES appointee following the appointee's receipt of an unsatisfactory rating under 5 U.S.C., 4314.

A1-16. The termination under 5 CFR, Part 359, Subpart D of the appointment of an SES career employee during probation for unsatisfactory performance.

A1-17. A performance evaluation under 5 U.S.C., Chapter 43, Subchapter II (performance appraisal in the SES).

A1-18. The receipt of or failure to receive a performance award under 5 U.S.C. 5384 (performance awards in the SES), or a quality salary increase under 5 U.S.C. 5336.

A1-19. An action taken according to the terms of a formal agreement voluntarily entered into by an employee which assigns the employee from one geographical location to another or returns an employee from an overseas assignment.

A1-20. A suspension of driving privileges on military installations and in areas subject to military traffic supervision. Such action may be reviewed under AFR 125-14.

A1-21. An action taken under DOD 5200.2-R/AFR 205-32.

OFFICIAL ADDRESSES FOR APPEALS AND GRIEVANCES

A2-1. Deputy Assistant Secretary of the Air Force
(Civilian Personnel, Policy, and Equal Employment
Opportunity):

SAF/MIK
Wash DC 20330-1000

A2-2. Air Force Civilian Appellate Review Agency,
Office of the Director:

AFCARA/DIR
Bolling AFB, DC 20332-6438

A2-3. Air Force Civilian Appellate Review Agency,
Appellate Review Board:
AFCARA/ARB
Bolling AFB, DC 20332-6438

A2-4. Air Force Civilian Appellate Review Agency,
Appellate Examining Division:

AFCARA/AED
US Post Office and Courthouse Building
615 East Houston St., Box 660
San Antonio, TX 78293-0660

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